REMARKS

The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Status of Claims

Claims 1 – 25 are pending in the application. Claims 10-12, 15-17, and 21-25 are withdrawn. Claims 1-9, 13, 14, and 18-20 are rejected. Claims 1 and 18 are amended. Claims 13 and 14 are cancelled.

ELECTION/RESTRICTION

Applicant affirms the telephonic election by Applicant's Representative, Daniel J. Swirsky, Reg. No. 45,148, on August 4, 2004, of Group I, claims 1-9, 13, 14, and 18-20, and reserves the right to request reinstatement of non-elected claims and/or pursue non-elected claims in one or more continuation applications.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

Claims 1-7, 13, and 18-20 have been rejected under 35 U.S.C. §102, as being anticipated by U.S. Patent No. 5,832,224 to Feshkens et al. (hereinafter "Feshkens"). Claims 13 is cancelled without prejudice or disclaimer. Applicant respectfully traverses the rejection of claims 1-7 and 18-20 in view of the remarks that follow.

Specifically, point #9 of the instant Office Action asserts that Feshkens' "access modules" are equivalent in functionality to the "agent module" recited in Applicant's claim 1. Applicant respectfully submits that these elements are not equivalent as follows.

Claim 1 recites, *inter alia*:

...an agents module, the agents module *modeling* functional operation of at least one network element that is in communication with the management unit...(emphasis added).

The present application on page 11, line 10, defines "modeling" as:

...determining how the modeled entity would react in light of a given input condition and a state of operation...

Thus, the agents module recited in claim 1:

1. considers what is input into a modeled entity;

2. considers what is the current state of the modeled entity; and

3. determines how the modeled entity would react given 1 and 2.

These elements are absent from Feshkens. In contrast, Feshkens' access modules do not model network elements in that they do not attempt to determine how an entity would react in light of a given input condition and a state of operation, but merely carry out commands as received. The behavior of Feshkens' access modules is clearly demonstrated at col. 10, lines 40-67, where:

A request may, for example, enable something to occur in the complex system, that is, it may *cause the state or condition of the complex system to be changed*. In processing such a request, one or more access modules 12 *perform predetermined operations that change the state or condition of one or more entities* in the complex system being managed. The access modules 12 that process such a request generate status information indicating the status of the request, which they return to the functional-access kernel 14.

Alternatively, *a request may solicit information as to the status or condition of one or more entities in the system*, the entities being identified in the request. In processing such a request, one or more access modules 12 *may determine the status or condition of the entities*, and return an identification thereof to the functional-access kernel 14. In other cases, information stored in the control

arrangement (such as by a historical data recorder functional module) may be used to satisfy the request.

In addition, *a request may be of both types, that is, it may change the state or condition of one or more entities, and may also request information as to the states or conditions of the entities after the change*. In processing such a request, the access modules 12 *cause the change to occur, if possible, and return status information as to the status of the request, as well as information as to the states or conditions of the entities* (emphasis added).

Thus, Feshkens' access modules apply "predetermined commands" to the entity without regard to the current operational status of the entity. No attempt is made to predict the reaction of the controlled entity, and Feshkens' access modules are only concerned with the state of the entity "after the change" to the state of entity has occurred subsequent to applying commands to the entity.

Claim 1 has been amended to more clearly reflect this distinction by reciting the definition of "modeling" as indicated in the specification, although claim 1 already recites that "the agents module *modeling*", etc., which is to be understood in view of the definition of modeling provided by the specification.

In view of the above, Applicant submits that claim 1 is not anticipated by Feshkens, and is therefore deemed allowable. Applicant therefore requests that the rejection of claim 1 be withdrawn.

Claims 2 - 7 depend directly from claim 1, and are, *a fortiori*, deemed allowable. Applicant therefore requests that the rejection of claims 2 – 7 be withdrawn.

Claim 18 likewise recites the modeling features that are absent from Feshkens, and has likewise been amended to include the definition of modeling provided by the specification.

In view of the above, Applicant submits that claim 18 is not anticipated by Feshkens, and is therefore deemed allowable. Applicant therefore requests that the rejection of claim 18 be withdrawn.

Claims 19 and 20 depend directly from claim 18, and are, *a fortiori*, deemed allowable. Applicant therefore requests that the rejection of claims 19 and 20 be withdrawn.

35 U.S.C. § 103(a) Rejections

Claim 7 has been rejected under 35 U.S.C. §103(a), as being unpatentable over Feshkens in view of U.S. Patent No. 6,058,426 to Godwin et al. (hereinafter "Godwin"). In view of the above argument with regard to claim 1, and as claim 7 depends directly from claim 1, claim 7 is, *a fortiori*, deemed allowable. Applicant therefore requests that the rejection of claim 7 be withdrawn.

Claim 8 has been rejected under 35 U.S.C. §103(a), as being unpatentable over Feshkens in view of Godwin and further in view of U.S. Patent No. 5,907,696 to Stilwel et al. (hereinafter "Stilwel"). In view of the above argument with regard to claim 1, and as claim 8 depends indirectly from claim 1, claim 8 is, *a fortiori*, deemed allowable. Applicant therefore requests that the rejection of claim 8 be withdrawn.

Claim 9 has been rejected under 35 U.S.C. §103(a), as being unpatentable over Feshkens in view of Godwin and further in view of U.S. Patent No. 6,018,516 to Packer (hereinafter "Packer"). In view of the above argument with regard to claim 1, and as claim 9 depends indirectly from claim 1, claim 9 is, *a fortiori*, deemed allowable. Applicant therefore requests that the rejection of claim 9 be withdrawn.

Claim 14 has been rejected under 35 U.S.C. §103(a), as being unpatentable over Feshkens in view of U.S. Patent No. 6,192,034 to Hsieh et al. (hereinafter "Hsieh"). Claim 14 is cancelled without prejudice or disclaimer.

Conclusion

Applicant respectfully submits that entry of the instant amendment and consideration of the above remarks renders the present application in condition for allowance, which action Applicant respectfully solicits.